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The Monthly Report of Legislative Activity

A Publication of
Montana Legislative Council

DECEMBER 1992 HELENA, MONTANA VOL. VIII NO. 19

FIFTY-THIRD LEGISLATURE COMMITTEE ASSIGNMENTS

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LEGISLATIVE FINANCE COMMITTEE

Committee Meets in November...The Legislative Finance Committee met on November 20 in Helena to hear a number of staff reports and complete its interim work. The Committee also met with the Legislative Audit Committee.

Joint Meeting with Legislative Audit Committee...At the joint meeting, the two committees heard a staff report on options for reorganizing the Board of Housing (BOH) functions. Both committees voted to have Legislative Auditor staff draft legislation to implement a reorganization of the BOH and Board of Investments similar to Option #3 presented in the staff report. Under this option, a state revenue bond authority would be created to oversee bond activity now performed by the Health Facilities Authority, the BOH, and the Board of Investments. BOH staff reported to the committees that in response to a recent Attorney General's opinion, it planned to comply with House Bill 41 by immediately transferring $500,000 to the general fund.

The two committees also reviewed the report of the Subcommittee on Information Processing Technology and endorsed it. The Legislative Finance Committee will sponsor legislation implementing the Subcommittee's recommendations, which include:

1) expanding the Department of Administration's review and approval of information processing technology equipment, software, statewide data network, and contracts used by state agencies; and
2) updating statutes dealing with computer crimes.

The Legislative Audit Committee will sponsor legislation implementing the consolidation of the payroll, personnel, position control, and warrant writer systems.

Natural Resource Damages Suit...The Legislative Finance Committee reviewed the state's cost in the Natural Resource Damage Assessment litigation. During the period 1988 through 1993, the state has spent $5.5 million on this suit, which was filed under the federal CERCLA for damages to natural resources from the release of hazardous substances in the Clark Fork Basin. The $4.9 million appropriation for the current biennium is funded with a general fund loan that is to be repaid with interest from amounts recovered from the lawsuit. The Department of Health believes that the case will be settled in fiscal 1995, allowing repayment of the loan. However, if the case is not settled and goes to trial, the litigation may not be concluded until fiscal 1997. DHES plans to request the 1993 Legislature to extend the current $4.9 million loan and to approve an additional $2.6 million general fund loan to continue the litigation during the 1995 biennium.

Budget Amendments...The executive and other approving authorities certified 35 budget amendments to add $4.0 million and 28.84 FTE. The Committee found that 34 of these budget amendments met the statutory criteria. Since the 1993 biennium began, 325 budget amendments adding $58.3 million and 206.91 FTE have been requested by the executive and other approving authorities.

Human Service Provider Rates...The Committee considered a report on the current methods for budgeting human service provider rate increases and alternatives for improving the budgeting process. In fiscal 1993, $357.3 million ($105.4 million general fund) has been appropriated to three state agencies to purchase services from private contractors providing mental health, developmental disabilities, foster care, day care, medical, and other human services. The general fund appropriated for human service providers' services is the third largest component of the state general fund budget.

There are several concerns about the current budgeting process for provider rates:

1) Although some of these rates are not increased without legislative authorization, others increase as providers' allowable costs increase. This dual system creates inequitable treatment for provider groups and may limit the Legislature's ability to set priorities and control expenditures.

2) No well-defined process exists for including inflationary adjustments in many providers' rates. While the current budget process allows for increases in key operating costs (workers' compensation, FICA rates, health insurance) in state agency budgets, no similar process exists for most providers' rates. As a result, OBPP and LFA staff perform little analysis of existing rates and proposed increases prior to the session, so legislators do not have needed information on which to base decisions concerning increases. Further, the burden of funding provider rate increases may fall on the Legislature if the executive budget adjusts state agency budgets but not provider rates for inflationary increases.

The report presented several alternatives for improving the budget process regarding human service provider rate increases. The Committee will discuss these alternatives at its January meeting and seek input from the House Appropriations and Senate Finance and Claims Committees.

Montana Science and Technology Alliance (MSTA)...The staff updated the Committee on MSTA's recent investments. During the last quarter of fiscal 1992, MSTA invested an additional $462,727 in research and development projects and $400,000 in seed capital projects. It received

$608 in return on investments. Since 1986, MSTA: 1) has invested $6.8 million and granted $0.5 million of coal tax trust and other funds; 2) incurred administrative and foregone interest costs of $2.7 million; and 3) had a net loss of $69,817. Thus, MSTA's total direct return on its investments over this 6-year period has been a net negative 0.7 percent.

MSTA plans to request that the 1993 Legislature allow an additional $140 million of the permanent coal tax trust be appropriated over the next eight years for science and technology development activities with $122 million available for MSTA loans and grants.

To Release Budget Analysis...The Legislative Finance Committee will meet on January 4 to receive the two-volume LFA analysis and overview of the 1995 biennium budget. Dave Lewis, the incoming Budget Director, will also present Governor-elect Racicot's executive budget to the Committee.

The LFA Budget Analysis will be available at 6 PM on January 3 in Room 105 of the State Capitol.

COMMITTEE ON POSTSECONDARY EDUCATION POLICY AND BUDGET

Committee Discusses Tuition Indexing...The Joint Committee on Postsecondary Education Policy and Budget (PEPB) held its seventh meeting on November 19 in Helena.

The Committee discussed the concept of tuition indexing currently under consideration by the Board of Regents. Tuition indexing refers to the establishment of tuition levels at a chosen percentage of total educational costs. While the Committee took no action on this issue, it agreed to discuss the concept further after the Board of Regents' December meeting.

Committee Recommends Legislation...The Committee voted to:

1) endorse the concept of telecommunications in the state of Montana and recommend that the Legislature support this effort in whatever way possible; and

2) recommend legislation requiring the establishment of a Nursing Education Advisory Committee, with representatives of various nursing education and health organizations, to develop a state plan addressing:

a) curriculum standards for each type of nursing education and training program;

b) standards and policies that ensure optimal transfer and course credits;
c) standardized evaluation procedures that allow credit for prior training and experience;
d) development of a primary care nurse practitioner program; and
e) expanded rural access to nursing education programs.

Committee Selects Topics for Future Study...The Committee also agreed to:

1) explore options for funding deferred maintenance projects in the Montana University System for Committee recommendation to the 1993 Legislature; and

2) explore possible study subject areas for the PEPB that would be included in a bill continuing the Committee in the 1995 biennium.

To Meet Again in December...The next meeting of the PEPB will be held on December 14.

ENVIRONMENTAL QUALITY COUNCIL

Holds Last Meeting of Interim...The Environmental Quality Council (EQC) met on November 18 and 19 for the last time this interim. The Council addressed the following issues.

Montana Environmental Policy Act (MEPA) Award...The First Annual George Darrow MEPA Award for leadership, innovation, and commitment to MEPA implementation was awarded to the Forestry Division, Montana Department of State Lands. The Division was cited for its continuing efforts to improve its decisionmaking through better public involvement and MEPA compliance.

Solid Waste Management Issues Update...The Council continued to review implementation of its recommendations regarding differential fees for out-of-state waste and also reviewed draft "housekeeping" legislation.

Energy Policy Study...The Council reviewed the Energy Efficiency Collaborative recommendations, discussed the final report, and reviewed draft legislation.

Lakeshore Development Study...Draft legislation regarding noise and lakeshore development was reviewed, and the Council continued its discussion of water quality monitoring. The Council wrote the Governor and various agency heads asking for specific information on water quality monitoring responsibilities.

Forestry...Department of State Lands (DSL) personnel updated the Council on the Best Management Practice (BMP) audits, MEPA implementation, and other forestry issues.

Other Issues...Other issues on the agenda included further discussion of radon and water quality nondegradation, and updates on the EQC staff MEPA training program, the results of the state water planning process, and the ground water characterization and assessment program. The Council also discussed its budget and interim goals and objectives.

To Discuss Legislative Issues...The Council has tentatively scheduled a meeting for the early part of January to discuss EQC-sponsored legislation and other session issues.

For more information regarding these issues or the January meeting, please contact the EQC staff.

WATER POLICY COMMITTEE

Committee Takes Final Action...The Water Policy Committee, meeting on Friday, November 6, 1992, reviewed and took final action on the following interim studies: Dam Safety, Water Reservations, Water User and Recreational User Fees, and Geothermal Resources.

Water Research...The Water Resources Center, Montana State University, presented its plans to comply with the Committee's 1992 recommendations regarding Water Center restructuring. Due to the unclear fiscal situation of the state, the Committee did not endorse the proposed restructuring funding plan. However, the Committee did express a strong desire to work with the University system to implement as many of the recommendations as possible without additional funding.

Drought Advisory Committee...The Drought Advisory Committee (DAC) presented a final report to the Committee covering DAC activities during the interim. The Committee considered the report, commended the DAC for its efforts, and made final recommendations.

General Committee Issues...During a working lunch, the Committee reviewed its statutory obligations and discussed appropriate Committee goals and objectives. A good discussion regarding the future role of the Committee was initiated. This discussion will continue at the next Committee meeting.

The Committee also received updates on the Water Leasing Program, upper Missouri River reservation process, State Water Plan Water Quantity/Quality Final Plan Section adoption process, Reserved Water Rights Compact Commission, and tribal water rights issues, and reviewed the Committee's draft report to the 1993 Legislature.

Final Meeting in December...The Water Policy Committee will hold its final meeting of the interim at 9:00 a.m., Thursday, December 3 in Room 108 of the State Capitol.

The Committee will review and discuss draft legislation implementing its final recommendations from the Dam Safety Study. The Committee will also receive updates on Water Court issues, the Montana Watercourse Program, and the DNRC water development report and review the Committee's draft report to the 1993 Legislature.

For more information on these issues or an agenda for the December 3 meeting, please contact the EQC staff.

COMMITTEE ON WORKERS' COMPENSATION

Committee Adopts Proposals...The Committee on Workers' Compensation met for the final time on November 13 and 14. The Committee adopted two proposals.

The first proposal recommends legislation placing the State Fund under the authority of the Insurance Commissioner, exempting the Fund from the requirements of the Montana Administrative Procedures Act, and exempting the Fund from the budget and appropriation process.

The second proposal requires the executive branch to negotiate and finalize a contract with the Zurich/American Insurance Company to take over the Old Fund. The money needed to fund the contract will come from an employer/employee payroll tax not to exceed 1%.

DISTRICTING AND APPORTIONMENT COMMISSION

Final Public Hearing Held...The Districting and Apportionment Commission held its final public hearing on all 100 House of Representative districts and 50 Senate districts on November 30 in Helena at the Capitol. The Commission made revisions within six regions; the other regions remain as adopted.

Northwest Region: Adopted boundary change for House District 105; change in Senate pairings - Sen. Ethel Harding assigned to House Districts 112 and 113.

Southwest Region: Adopted boundary change for House Districts 531 and 532.

Northeast Region: Reconsidered Northeast Region and adopted Amended Plan 200. Adopted the new Senate pairings of House Districts 243 and 244, assigned to Sen. Daryl Toews; and House Districts 245 and 246, assigned to Sen. Dennis Nathe.

Southeast Region: Adopted boundary change for House Districts 155 and 151.

Gallatin Region: Adopted boundary change for House Districts 378 and 382.

Yellowstone Region: Adopted the Senate pairings of House Districts 189 and 190, assigned to Sen. Tom Keating; House Districts 100 and 199, assigned to Sen. Gary Forrester; and House Districts 195 and 196 (no holdover senator).

To Present Final Plan to Legislature...The Commission will present the final plan to the Legislature by the 10th legislative day. Each legislator will receive a packet of information prior to that time. The Legislature will have 30 days in which to comment. The Commission plans to submit the final plan to the Secretary of State by mid-February.

The new districts will not go into effect until the 1994 elections, so all legislators will represent the district from which they were elected for the next two years. Beginning in 1995, Senators elected in 1992 will represent their assigned districts for the remaining two years of their term.

REVENUE OVERSIGHT COMMITTEE

Committee Adopts Preliminary Revenue Estimates...The Revenue Oversight Committee is required to estimate the amount of revenue projected to be available for legislative appropriation and to introduce a House Joint Resolution setting forth those estimates. On Nov. 19, the Committee heard testimony from economists, financial analysts, representatives from the mining industries in Montana, and state agency officials regarding the various economic assumptions that may be incorporated into the revenue estimating models. The Bureau of Business and Economic Research, University of Montana, expects modest economic growth in the state between 1992 and 1995. The Bureau projects nonfarm labor income to increase by 2% or less annually (adjusted for inflation). Economic growth may decelerate toward the end of the next biennium because of a decline in the wood products industry. A consensus of testimony indicated that inflation will be relatively low (3% to 5%) and that interest rates will be relatively stable through 1995.

Representatives from the mining industries anticipate little or no growth in production from metal mines and coal mines. Because of the decline in metal prices, most mines are near their operating margins and may temporarily suspend operations. Oil production in the state will continue to decline at about 3% per year. Oil prices will fluctuate around a narrower band than previously predicted. Statewide taxable value is expected to increase from $1.59 billion in 1991 (FY 1992) to $1.67 billion in 1994 (FY 1995).

On Nov. 20, Terry Johnson, Office of Legislative Fiscal Analyst, and Steve Bender, Office of Budget and Program Planning, presented their recommendations on the assumptions the Committee should adopt for the revenue estimates for the general fund and the school equalization account. Although the Fiscal Analyst and the Budget Office differed on some of the economic assumptions, their revenue estimates for the biennium based on those assumptions were not significantly different. Following a lengthy discussion, the Committee voted to adopt the assumptions recommended by the Fiscal Analyst as the basis for preliminary revenue estimates. The Committee will meet January 5, 1993, to revise its assumptions dealing with individual income taxes. The preliminary estimates for individual income taxes were based on 1990 income tax data. The revised assumptions will be based on 1991 income tax data that the Department of Revenue has just made available.

Revenue Collections Ahead of Schedule?...Terry Johnson, LFA, reported on state general fund and school equalization account revenue collections through November 17, 1992. According to Johnson, collections, after adjustments, are slightly ahead of the same period last year. He estimated that revenue collections for fiscal year 1993 will be about $12 million higher than anticipated by the Legislature at the end of the July 1992 Special Session. This estimate is based on revenue collections

through Nov. 17 and on the economic assumptions that he recommended to the Committee. Johnson pointed out, however, that higher individual income tax refunds and lower than expected payment of estimated taxes in April and June 1993 may offset the $12 million increase.

Fund Balances Discussed...During the January 1992 Special Session, the Legislature passed House Joint Resolution No. 2 (HJR 2) requesting that the Department of Commerce review the fund balances of all boards attached to the Department and present its findings and recommendations to the Revenue Oversight Committee and the Legislative Finance Committee. The purpose of HJR 2 wes to determine whether the financial resources of these boards were being used to meet the needs of the state and whether any of the resources could be transferred to the state general fund.

Andy Poole, Deputy Director, Department of Commerce, presented a report on the fund balances of the boards to the Committee. His report described the activities of the boards, reviewed the statutory constraints on the use of cash balances, listed the amount of the account balance for each board, and presented the Department's recommendations for 34 professional and occupational licensing boards and 11 other boards (e.g., Coal Board, Board of Investments, and the Board of Housing). Poole seid that the Department has recommended to the professional and occupational boards that they reduce their fees if the "fund balance is beyond a reasonable level." With respect to the other boards, Poole pointed out that the Legislature has provided that fund balances above a certain amount carried by the Science and Technology Alliance, the Coal Board, and the Hard Rock Mining Board must be transferred to the state general fund, the school equalization account, and the counties, respectively. The Department generally recommended that fund balances of all the boards be used for the purpose for which the boards were established.

Other Committee Business...The Committee reviewed a bill draft for distributing tax revenue under a state-tribal negotiated tax agreement. The Department of Revenue presented a summary comparison of 1990 and 1991 individual income tax return data. The Department of Revenue informed the Committee that the state and Crow Indian Tribe are seeking judicial guidance on issues related to the refund of coal severance taxes to the Tribe. The Committee presented its critique of the Department of Revenue as required by 15-18-108, MCA.

Committee to Meet Jan. 5...The Revenue Oversight will meet January 5, 1993, at 8:00 in Room 325 (Old Supreme Court Chambers) of the Capitol. The principle item of business will be to revise the assumptions relating to individual income taxes. The Committee will also hear a presentation by Robert Wescott, Forecast Coordinator for the Wharton Econometrics Forecasting Association, a national economic forecasting group.

LEGISLATIVE AUDIT COMMITTEE

Committee Meets in November...The Legislative Audit Committee met November 20, 1992, in Room 325 of the Capitol Building. The following reports were presented:

CONTRACTED AUDIT

State Employee Group Benefits, Department of Administration (92C-09): The audit for the period March 1, 1990, through February 29, 1992, was conducted by Wolcott & Associates, Inc., under a contract between the firm and the Legislative Auditor's Office. The report contained recommendations concerning out-of-state providers, procedure codes, duplicate claim edits, fee billing, and workers' compensation.

PERFORMANCE AUDIT

Management of Forested Trust Land, Department of State Lands (91P-36): This program audit presented information on the Management of Forested Trust Land by the Forestry Division, Department of State Lands. The information was presented so the Legislature can compare the current operation and priorities of the Forestry Division to those the Legislature believes are necessary. The report addressed revenue generated by sales of forest products, need for and funding of the Private Forestry Assistance Program, and the need for and funding of the Conservation Planting Program.

ELECTRONIC DATA PROCESSING (EDP)

Information Processing Facility and Central Applications (92DP-33): This report was the result of a FY92 electronic data processing (EDP) review of the state mainframe computer (Information Processing Facility) and the State Payroll, Warrant Writer, and SBAS applications. The report included general control issues for the Information Processing Facility and application control issues for the State Payroll, Warrant Writer, and SBAS systems. The report contained recommendations to the Department of Administration for the Information Processing Facility and SBAS system and to the State Auditor's Office for the State Payroll system.

To Meet in December...The next meeting of the Legislative Audit Committee is tentatively scheduled for December 21, 1992.

LEGISLATIVE COUNCIL

LIBRARY

On January 5 and 6 from 3 p.m. to 5 p.m. in Room 104, State Capitol, Beth Furbush, Research Librarian, and Judy Meadows, State Law Librarian, will conduct a workshop to provide basic information on the Montana legislative process and on legal research. Topics covered will include how a bill becomes law, legislative information sources, and determining legislative intent. We hope you can join us.

COMMITTEE ON INDIAN AFFAIRS

Committee Meets Via Telephone...The Committee on Indian Affairs held a telephone conference call on November 4. The Committee approved the final report with some minor changes and approved a bill draft clarifying that the State-Tribal Cooperative Agreements Act applies to taxation agreements.

INTERIM CALENDAR

December 3, Water Policy Committee, Room 108, 9:00 a.m.

December 14, Committee on Postsecondary Education Policy and Budget

December 21, Legislative Audit Committee, Room 104

December 25, Christmas Day, holiday

1993

January 1, New Year's Day, holiday

January 3, LFA Budget Analysis available, 6:00 p.m., Room 105

January 4, 53rd Legislature convenes

January 4, Legislative Finance Committee

January 5, Revenue Oversight Committee, 8:00 a.m., Room 325 (Old Supreme Court Chambers)

January 5 and 6, Legislative Process Workshop, 3:00 p.m., Room 104

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